

**MAINE BOARD OF DENTAL PRACTICE**  
**Minutes of January 17, 2020 Board Meeting**

**CALL TO ORDER**

Board Chair Dr. Davis called the meeting to order at 9:07 a.m.

**MEMBERS PRESENT**

Glen Davis, DMD, Board Chair  
Mark Zajkowski, DDS, MD, Board Vice Chair  
Stephen Morse, DMD  
Todd Ray, DMD  
Kathryn Young, LD  
Tracey Jowett, RDH, IPDH

**MEMBER ABSENT**

M. Lourdes Wellington, Public Member

**STAFF PRESENT**

Penny Vaillancourt, Executive Director  
Teneale Johnson, Executive Secretary  
James Bowie, Assistant Attorney General  
Andrew Black, Assistant Attorney General

**MINUTES REVIEW AND APPROVAL**

Dr. Morse made a motion to accept the minutes of December 6, 2019. Dr. Zajkowski seconded the motion. Vote 6-0 in favor.

**SUBCOMMITTEE REPORT(S)**

- Subcommittee on Denturists Report
  - The Subcommittee members approved their November 8, 2019 meeting minutes.
  - The Subcommittee members reviewed two applications for denturist licensure and provided the following recommendations to the Board:
    - Chad Erickson – Recommendation to approve this applicant to take the Maine Denturist Qualifying Examination, and require the applicant to obtain a substance abuse/behavioral health assessment with the Maine Medical Professionals Health Program (“MPHP”). There was no objection to the Subcommittee recommendation.
    - Kristina Spaulding – Recommendation to approve this applicant to take the Maine Denturist Qualifying Examination, and require the applicant to obtain a substance abuse/behavioral health assessment with the Maine Medical Professionals Health Program (“MPHP”). There was no objection to the Subcommittee recommendation.

- Election of Officers for 2020 – The Subcommittee reported that Ms. Kathryn Young will continue as the Subcommittee Chair and Mr. Gareth Coward will continue as the Subcommittee Secretary for 2020

## **COMPLAINT ITEMS – INITIAL PRESENTATIONS**

*Case No. 18-17:* A complaint was filed against a dentist alleging discomfort after crown placement. After a review and discussion of the materials presented, Dr. Morse made a motion to dismiss the case. Ms. Young seconded the motion. Vote 5-0 in favor. (Dr. Davis recused)

*Case No. 18-43:* A complaint was filed against a dentist alleging that the office mishandled their insurance claim and felt they were overpaying for treatment. After a review and discussion of the materials presented, Ms. Young made a motion to dismiss the case. Dr. Morse seconded the motion. Vote 5-0 in favor. (Dr. Davis recused)

*Case No. 18-47:* A complaint was filed against a dentist alleging that the dentist responsible for the delivery of a final restoration following a root canal treatment caused a delay in scheduling the appointment and the patient felt that their tooth was going to be compromised. After a review and discussion of the materials presented, Ms. Jowett made a motion to dismiss the case. Dr. Ray seconded the motion. Vote 5-0 in favor. (Dr. Davis recused)

*Case No. 18-70:* A complaint was filed against a dentist alleging unprofessional conduct related to the placement of a temporary crown. After a review and discussion of the materials presented, Ms. Jowett made a motion to dismiss the case. Dr. Ray seconded the motion. Vote 5-0 in favor. (Dr. Davis recused)

*Case No. 18-86:* A complaint was filed against a dentist alleging that she and her family always get sick after receiving dental treatment at the office and was concerned that the office was not performing spore testing as required. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to dismiss the case. Ms. Young seconded the motion. Vote 5-0 in favor. (Dr. Davis recused)

- Dr. Zajkowski made a motion to inform the Massachusetts Dental Board of the information that was gathered during the investigation of the above case concerning the behavior of a Massachusetts licensed dentist involved in filing the complaint. Ms. Young seconded the motion. Vote 6-0 in favor.

*Case No. 19-27:* A complaint was filed against a dental radiographer alleging that she provided oral sedatives to a pediatric patient who was not scheduled to have oral sedation. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to table its review of this case and issue a board-generated complaint against the supervising dentist alleging unauthorized delegation of dental practice; failure to adhere to the sedation regulations; and recordkeeping violations. Dr. Ray seconded the motion. Vote 5-0 in favor. (Dr. Morse recused)

*Case No. 19-43:* A complaint was filed against a dentist alleging unprofessional conduct related to billing disputes and communication exchanges between the patient's parent and the dentist. After a

review and discussion of the materials presented including previous discipline imposed by the Board, Dr. Zajkowski made a motion to offer the licensee a consent agreement for unprofessional conduct. The terms of the consent agreement include the following: (1) admission to the violation; (2) Censure; (3) Civil penalty of \$1,500 to be paid within 90 days; and (4) Six hours of pre-approved continuing education on doctor-patient communication to be completed within 90 days and cannot be used for license renewal. Dr. Ray seconded the motion. Vote 5-0 in favor. (Dr. Morse recused)

*Case No. 19-50:* A complaint was filed against a dentist alleging that the proposed treatment plan was not warranted. After a review and discussion of the materials presented, Dr. Zajkowski motion to dismiss the case. Ms. Jowett seconded the motion. Vote 5-0 in favor. (Dr. Morse recused)

*Case No. 19-13:* A complaint was filed against a dentist alleging improper hand hygiene and orthodontic appliance failure on multiple occasions. The Board reviewed the next case against the same licensee.

*Case No. 19-18:* A complaint was filed against a dentist alleging orthodontic appliance failure on multiple occasions.

After a review and discussion of the materials presented for both Case No. 19-13 and Case No. 19-18 including a letter of guidance that was previously issued regarding informed consent requirements, Dr. Ray made a motion to offer the licensee a consent agreement based on the lack of a signed informed consent in each record. The terms of the agreement be as follows: (1) admission to the violation; (2) Censure; (3) Six hours of pre-approved continuing education on risk management to be completed within 90 days and cannot be used for license renewal. Dr. Morse seconded the motion. Vote 5-0 in favor. (Dr. Zajkowski recused)

Dr. Ray also made a motion that upon receipt of the fully executed consent agreement, the Board issue the licensee a letter of guidance to remain on file for five years. The purpose of the letter of guidance is to educate the licensee regarding the regulations governing proper protocols relating to hand hygiene pursuant to Board Rules, Chapter 9. Dr. Morse seconded the motion. Vote 5-0 in favor. (Dr. Zajkowski recused)

*Case No. 19-37:* A complaint was filed against a dentist alleging that the dentist purposefully fractured a tooth during a procedure. After a review and discussion of the materials presented including a discussion of the restoration of the tooth, Dr. Morse made a motion to dismiss the case. Ms. Young seconded the motion. Vote 4 in favor, 1 opposed (Dr. Ray). (Dr. Zajkowski recused)

*Case No. 19-38:* A complaint was filed against a dentist alleging that treatment relating to a crown preparation resulted in the patient's need for emergency room care which resulted in hospitalization. After a review and discussion of the materials presented including a review of the patient records, Dr. Morse made a motion to dismiss the case and issue the licensee a letter of guidance to remain on file for five years. The purpose of the letter of guidance is to educate the licensee regarding Board Rules, Chapter 9 specific to providing a complete patient record when responding to a request for records. Dr. Ray seconded the motion. Vote 5-0 in favor. (Dr. Zajkowski recused)

*Case No. 19-45:* A complaint was filed against a dentist alleging improper postoperative treatment by not providing any pain medication. After a review and discussion of the materials presented, Dr. Morse made a motion to dismiss the case and issue a letter of guidance to remain on file for five years. The purpose of the letter of guidance is to educate the licensee to effectively communicate to a patient policies on pain management and prescribing practices when discussing a patient's treatment plan. Dr. Ray seconded the motion. Vote 5-0 in favor. (Dr. Zajkowski recused)

*Case No. 19-58:* A complaint was filed against a dentist alleging incompetent care and unprofessional communications with a pediatric patient involving orthodontic treatment. After a review and discussion of the materials presented, Dr. Ray made a motion to dismiss the case. Dr. Morse seconded the motion. Vote 5-0 in favor. (Dr. Zajkowski recused)

*Case No. 18-19:* A complaint was filed anonymously against a dentist alleging the unauthorized delegation of procedures to an expanded function dental assistant, unprofessional conduct relating to infection control procedures; and illegal compensation of employees. After a review and discussion of the materials presented, Ms. Jowett made a motion to table the review of the case for the purpose of conducting additional investigation. Dr. Morse seconded the motion. Vote 5-0 in favor. (Dr. Ray recused)

*Case No. 19-44:* A complaint was filed against a dentist alleging deficient work, patient abandonment and failure to release records. After a review and discussion of the materials presented, Ms. Young made a motion to dismiss the case and issue a letter of guidance to remain on file for five years. The purpose of the letter of guidance is to educate the licensee regarding standards of practice to include obtaining and recording in a patient's record blood pressure readings, patient discussions of treatment, and complications of patient care. Dr. Morse seconded the motion. Vote 5-0 in favor. (Dr. Ray recused)

*Case No. 19-46:* A complaint was filed against a dentist alleging that the dentist compromised a tooth during a dental procedure which ultimately had to be extracted. After a review and discussion of the materials presented, Ms. Jowett made a motion to dismiss the case and issue a letter of guidance to remain on file for five years. The purpose of the letter of guidance is to educate the licensee regarding standards of practice to include obtaining and recording a complete legible record of patient information including the recording of vital signs and blood pressure readings, medical/dental histories, status at the time of examination, diagnosis, patient education, treatment plan, informed consent, progress notes, referral for specialty treatment, and pre-procedure/post-procedure instructions and any information conveyed to the patient.. Dr. Morse seconded the motion. Vote 5-0 in favor. (Dr. Ray recused)

*Case No. 19-49:* A complaint was filed against a dentist alleging failure to communicate a change in treatment plan, and unprofessional conduct. After a review and discussion of the materials presented, Dr. Morse made a motion to offer the licensee a consent agreement for failing to appropriately inform the parent of a change in treatment plan; lack of informed consent. The terms of the agreement include (1) admission of the violation; and (2) Warning. Dr. Zajkowski seconded the motion. (Dr. Ray recused)

*Case No. 19-54:* A complaint was filed against a dentist alleging that the dental assistant working under the supervision of the dentist was rude and condescending, and alleged that the dentist did not

administer enough local anesthetic prior to beginning treatment. After a review and discussion of the materials presented, Dr. Morse made a motion to dismiss the case. Dr. Zajkowski seconded the motion. Vote 5-0 in favor. (Dr. Ray recused)

*Case No. 19-55:* A complaint was filed against a dentist alleging that the dentist failed to provide appropriate orthodontic treatment for their child. After a review and discussion of the materials presented, Ms. Young made a motion to offer the licensee a consent agreement based on the violation of a standard of care by failing to make a timely referral for specialty care. The terms of the consent agreement include the following: (1) admission; (2) Censure; and (3) Twelve hours of pre-approved continuing education on orthodontic treatment planning and diagnosis to be completed within 90 days and cannot be used for license renewal. Dr. Morse seconded the motion. Vote 5-0 in favor. (Dr. Ray recused)

*Case No. 18-44:* This case was initially presented to the Board's at its September 13, 2019 meeting. At that time, the Board voted to table the review and requested the licensee to provide a copy of their policy on the administration of local anesthetic in the practice, and submit additional patient records involving multiple extractions and the administration of local anesthesia for the Board's review. After a review and discussion of the materials presented, Dr. Zajkowski made a motion to offer the licensee a consent agreement based on incompetencies in the administration of local anesthesia. The terms of the consent agreement include the following: (1) admission; (2) Warning; and (3) Twenty hours of pre-approved hands on and didactic continuing education on the delivery of anesthesia, anesthetic technique including maximum recommended dosing which must be completed within 90 days and cannot be used for license renewal. Dr. Morse seconded the motion. Vote 6-0 in favor.

#### **CASE ITEMS – COMPLIANCE REPORTING:**

*Case No. 12-14 – C. Moulton (Consent Agreement):* After a review and discussion of the compliance documents submitted to the Board, which included quarterly reporting requirements, Dr. Zajkowski made a motion to accept the documentation. Dr. Morse seconded the motion. Vote 6-0 in favor.

*Case No. 18-73 – J. Jordan (Consent Agreement):* After a review and discussion of the compliance documents submitted which included monthly reporting requirements, Dr. Zajkowski made a motion to accept the documentation. Ms. Young seconded the motion. Vote 6-0 in favor.

*Case No. 19-60 – R. Crawford (Consent Agreement):* After a review and discussion of the compliance documents submitted which included monthly reporting requirements, Dr. Morse made a motion to accept the documentation. Dr. Ray seconded the motion. Vote 6-0 in favor. The Maine Medical Professionals Health Program (MPHP) also submitted a request for the Board to approve an amended monitoring agreement for this licensee. After a review and discussion of the amended MPHP agreement, Ms. Jowett made a motion to approve the modification. Dr. Morse seconded the motion. Vote 6-0 in favor.

*Case No. 19-61 – E. Couture (Consent Agreement):* After a review and discussion of the proposed Rescission Agreement, Dr. Zajkowski made a motion to accept the agreement as presented. Dr. Ray seconded the motion. Vote 6-0 in favor.

## **APPLICATIONS:**

### **Dental Radiography:**

*Lisa Fortunato (Renewal):* Ms. Fortunato answered “no” to completing the required continuing education for license renewal and is requesting that her license be issued with an “inactive” status. After a review and discussion of the materials presented, Ms. Young made a motion to approve Ms. Fortunato’s application for renewal and grant the “inactive” status. Ms. Jowett seconded the motion. Vote 6-0 in favor.

*Kathryn Havener (Renewal):* Ms. Havener answered “no” to completing the required continuing education for license renewal and requested an extension of time to complete her CPR certification. Proof of certification was received prior to the Board’s meeting. After a review and discussion of the materials presented, Dr. Ray made a motion to approve the application for renewal and issue a letter of guidance for the purpose of educating the licensee of the provisions of Board Rules, Chapter 13 regarding requests for an extension to complete continuing education. Dr. Zajkowski seconded the motion. Vote 6-0 in favor.

*Chelsi Ricker (Renewal):* Ms. Ricker answered “no” to completing the required continuing education for license renewal and requested an extension of time indicating that she was scheduled to complete a CPR course in January. After a review and discussion of the application materials, Dr. Zajkowski made a motion to table its review of the application to the next meeting. Dr. Morse seconded the motion. Vote 6-0 in favor. Dr. Morse then moved to delegate the issuance of the license and a letter of guidance for the purpose of educating the licensee of the provisions of Board Rules, Chapter 13. Ms. Young seconded the motion. Vote 6-0 in favor.

*Rachael Hinkley (Initial):* After a review and discussion of the application materials which included a comparison of the Oklahoma State Radiography Course/Examination completed by the applicant and the DANB-RHS Examination, Dr. Ray made a motion to approve the application for licensure. Dr. Morse seconded the motion. Vote 6-0 in favor.

*Nicole Joy (Initial):* After a review and discussion of the application materials including Ms. Joy’s disclosure to the criminal conduct question, Dr. Zajkowski made a motion to approve the license application for Ms. Joy. Ms. Young seconded the motion. Vote 6-0 in favor.

*Kaitlyn Souza (Initial):* After a review and discussion of the materials presented, including an assessment completed by the MPHP, Dr. Zajkowski motion to approve the license application for Ms. Souza. Dr. Morse seconded the motion. Vote 6-0 in favor.

*Sage Collins (Renewal):* After a review and discussion of the materials presented, including a Ms. Collin’s disclosure to the criminal conduct question, Dr. Zajkowski made a motion to approve the application for license renewal and issue a letter of guidance reminding the licensee that consumption of alcohol becomes a contributing factor in an incident that requires law enforcement intervention, that my indicate that the licensee is misusing alcohol; and providing her with MPHP resources. Dr. Morse seconded the motion. Vote 6-0 in favor.

*Dianna Morin (Renewal):* Ms. Morin answered “no” to completing the required continuing education for license renewal and is requesting that her license be issued with an “inactive” status. After a review and discussion of the materials presented, Ms. Young made a motion to approve Ms. Morin’s application for renewal and grant the “inactive” status. Ms. Jowett seconded the motion. Vote 6-0 in favor.

*June Say (Initial):* After a review and discussion of the application materials which included a disclosure of continuing to practice dental radiography after the expiration of her license, and non-disclosure of a criminal conviction, Dr. Zajkowski made a motion to preliminarily deny the application. In lieu of the denial, the Board voted to offer the applicant a consent agreement to include the following terms (1) an admission of unlicensed practice and failure to disclose criminal conduct information on the application to licensure; (2) Warning; and (3) Civil penalty of \$250.00 to be paid within 180 days. Dr. Morse seconded the motion. Vote 6-0 in favor.

#### **Dentist:**

*John Andrews, Jr., D.M.D. (Renewal):* After a review and discussion of the materials presented, including a disclosure of a settlement, Dr. Zajkowski made a motion to approve the application for license renewal. Dr. Morse seconded the motion. Vote 6-0 in favor.

*Kevin Guze, D.M.D. (Renewal):* After a review and discussion of the application materials presented, including a disclosure of an open complaint with another licensing jurisdiction, Dr. Zajkowski made a motion to approve the application for license renewal. Ms. Young seconded the motion. Vote 6-0 in favor.

*Christopher Evola, D.D.S. (Renewal):* After a review and discussion of the application materials, including a disclosure to the criminal conduct question, Dr. Morse made a motion to table its review of the renewal application and obtain documentation directly from the New York Courts and verification of his New York licensure. Dr. Ray seconded the motion. Vote 6-0 in favor.

*Laura De Oleo, D.D.S. (Initial):* After a review and discussion of the application materials, including a discussion to waive the regional examination in lieu of a one-year CODA approved residency, Dr. Ray made a motion to approve the application for licensure. Dr. Morse seconded the motion. Vote 6-0 in favor.

**Procedural Discussion with Hearing Officer, F. Mark Terison, Esquire – Case No. 17-21:** With the following members participating and appearing as a majority of members present: Dr. Morse, Dr. Davis, Dr. Ray and Ms. Jowett reviewed the draft Decision and Order for Case No. 17-21, and concluded to reopen the deliberations on the sanction portion of the draft Decision and Order. Notice will be provided to the licensee as to the scheduled date and time of the deliberations.

#### **BOARD CHAIR REPORT:**

- Dr. Davis went over his goals for 2020 including board member trainings and requested input from all members.

## **EXECUTIVE DIRECTOR’S REPORT:**

- Legislative Update:
  - Ms. Vaillancourt delivered the Government Evaluation report to the Legislature on January 14, 2020.
- Rulemaking Update:
  - Board staff will present a revised draft basis statement and response to comments document for their review at the February meeting.
- Financial Update:
  - Ms. Vaillancourt reminded the members that the late renewal period will run through the end of March.
- Licensing Update: The Board accepted the report as an FYI.
- Other:
  - State Board Licensure Examinations: The Board confirmed that it will accept state board examinations in lieu of meet the regional examination requirements for licensure.

## **OTHER ITEMS:**

**December 2, 2019 – Correspondence from University of New England’s College of Dental Medicine (UNE) – Qualifications for Resident and Faculty Dentist Licensure:** the Board discussed correspondence it received from UNE requesting the Board to consider proposed rulemaking changes specific to certain licensure qualifications in the categories of resident dentist and faculty dentist specific to the educational qualifications, examination requirements, and proof of licensure in countries other than the United States and Canada. The proposal also requested the Board to identify a pathway to full dentist licensure for resident dentists and faculty dentists as well as provide clarity on practice setting restrictions for resident dentist and faculty dentist licensure.

After a thorough review and discussion, the Board concluded that most of the proposals in the letter would require legislative action and are not measures that the Board has authority to implement through agency rulemaking. The Board has a very limited role in the legislative process and suggests that UNE contact either the Maine Dental Association or a similar organization that advocates and lobbies on behalf of those who employ dentists and/or provide dental services.

The Board will also offer UNE the option of requesting an advisory opinion pursuant to 5 M.R.S. § 9001, to obtain clarity regarding regulations governing practice limitations for the license categories of resident dentist and faculty dentist. In general, hypothetical questions posed to the Board regarding its interpretation and/or applicability of its regulations are not considered.

Dr. Morse made a motion to send a follow up letter clarifying the Board’s role and to inform UNE of the advisory opinion request process pursuant to Title 5 § 9001. Ms. Jowett seconded the motion. Vote 6-0 in favor.

**December 9, 2019 – E-mail from NH Board of Dental Examiners RE: Mostafa El-Sherif, D.M.D. RE: Voluntary Surrender:** After a review and discussion of the information, the Board directed board staff to place a flag on the former licensee’s record and keep the information on file should he choose to reapply for dental licensure in Maine.



**December 27, 2019 – Review of 2019 DOCS IV Sedation Certification Course – Request for Approval of Courses:**

*IV Sedation Course* – Following a review and discussion of the materials presented, the Board determined that an applicant who chooses to take this course would need to complete additional cases under the Board's registration process for ASA II or higher patients, and Pediatric cases in order to qualify for a Maine permit.

*Enteral Sedation Course* – Following a review and discussion of the materials presented, the Board determined that an applicant who chooses to take this course would need to complete additional cases under the Board's registration process for ASA II or higher patients, and Pediatric cases in order to qualify for a Maine permit.

**Review Draft Legislative Report – P.L. 2018, c.388:** After a review and discussion of the draft legislative report, Dr. Morse made a motion to accept the document as presented. Dr. Zajkowski seconded the motion. Vote 6-0 in favor.

*The following agenda items were accepted as an FYI:*

- December 2, 2019 – E-mail from Alexandra Peacock Cathcart, D.M.D. RE: Botox Guidelines
- December 4, 2019 – E-mail from Jacob Akers, D.D.S. RE: Botox Guidelines
- December 7, 2019 – E-mail from Jason Tubo, D.M.D. RE: Botox Guidelines
- 2019 Annual Report – Board of Dental Practice
- 2019 Annual Report – Board of Dental Practice – Subcommittee on Dental Hygienists
- 2019 Annual Report – Board of Dental Practice – Subcommittee on Denturists
- Continuing Education Approval Report
- Preliminary Agenda for Upcoming Meetings
- Case Management Reports

*Board staff will work with Dr. Zajkowski on updating the complaint form.*

**ADJOURNMENT**

Dr. Morse made a motion to the meeting at 3:20 p.m. Dr. Ray seconded the motion. Vote 6-0 in favor.